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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/926,792	04/03/2003	Alexander Kolbeck	KOLB3002/jek	8670

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EXAMINER
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D AGOSTA, STEPHEN M

ART UNIT	PAPER NUMBER
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2683

DATE MAILED: 05/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/926,792	KOLBECK ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Stephen M. D'Agosta	2683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-12 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 April 0203 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Information Disclosure Statement*

1. There was no IDS found by the examiner (eg. as submitted by the applicant) but there appears to be prior art provided by the applicant (as well as a search report). A new IDS should be filed so the examiner can formally consider the prior art transmitted.

2. The prior art (eg. from an information disclosure statement when filed) fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. Both **DE-19718115** and **DE-19723676** have been placed in the application file, but the information referred to therein has not been considered.

### *Specification*

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

**(a) TITLE OF THE INVENTION.**

**(b) CROSS-REFERENCE TO RELATED APPLICATIONS.**

**(c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.**

**(d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)),**

Art Unit: 2683

and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or

REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a).

"Microfiche Appendices" were accepted by the Office until March 1, 2001.)

**(e) BACKGROUND OF THE INVENTION.**

**(1) Field of the Invention.**

**(2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.**

**(f) BRIEF SUMMARY OF THE INVENTION.**

**(g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).**

**(h) DETAILED DESCRIPTION OF THE INVENTION.**

**(i) CLAIM OR CLAIMS (commencing on a separate sheet).**

**(j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).**

**(k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A**

"Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Bolded headings above are required.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-5 and 8-12** rejected under 35 U.S.C. 103(a) as being unpatentable over Peyret et al. US 5,923,884 and further in view of Raith US 6,4983,550.

As per **claims 1, 4 and 12**, Peyret teaches a method for operating a data carrier (eg. smart card, see title), equipped with a memory device (figure 1 shows RAM, ROM and NVM, also C2, L13-31) and a program execution unit for executing function programs contained in the memory device (figure 1 shows CPU, #22), comprising the steps:

Art Unit: 2683

installing a function program in the memory device of the data carrier for realizing a loader interface which in turn makes it possible to reload function programs each realizing a load application (figure 3 shows an Application Loader, #62 and Interface #86 and/or #88 while #62 teaches a Loading Control Program),

providing a free memory space available for the loader interface in the memory device (C4, L53 to C5, L12 teaches loading applications into memory such as RAM and or NVM or ROM),

reloading at least one load application via the communication device into the memory device, said reloading being controlled by the loader interface, and the load application being allotted a part of the free memory space as an assigned address space (figure 4 shows multiple application programs that have been loaded/reloaded, #94, #96).

**But is silent on** equipped with a communication device.

Raith teaches a mobile communications device/phone with a smart card – “...Regardless of the type of proximity detector used, it can be incorporated into a removable part of the mobile station, e.g., a smart card such as the subscriber identity module (SIM) card used in GSM systems...” (C8, L54-57).

***With further regard to claim 8,*** Raith teaches using a mobile phone with integrated SIM card as a replacement for a badge (figures 3 and 5, and “..According to exemplary embodiments of the present invention, mobile stations, e.g., cellular phones, are equipped with a device that enables the phone to detect the presence of a proximity system 320. This device may, for example, function in a substantially similar manner as an authorization badge...” (C7, L31-56) and “...Coupling authentication with proximity systems as described above creates various new and interesting usages for the present invention. For example, the mobile station 350 (or the smart card within the mobile station) could function as a key to unlock a door of office park 330. When near a locked door within this facility, the mobile station's authorization to enter can be determined using one of the aforescribed authentication procedures. More specifically, as an example, the smart card within the mobile station may include the proximity detector. When the proximity signal is received, the smart card can then send a signal to the

Art Unit: 2683

mobile station's processor to search for the privrad system 310's control channel and log-in. After logging in to the system, the mobile station may perform authentication via the privrad system. If successful, the authentication results can be shared with the proximity system 320 and the nearby door can be unlocked (C9, L49-65). Hence, one skilled would use the system described either with a badge-plus-SIM Card and/or a phone-plus-SIM card.

***With further regard to claim 12***, Peyret teaches a function program, for reloading at least one application program into the memory device via the communication device (figure 3 teaches an Application Loader #60 and figure teaches a Loading Control Program, #62) AND assigning memory space in the memory device to an application program to be loaded in accordance with size information contained on the smart card (Application Loader and Loading Control programs must either load program and produce a "Load Failure" if the program is too large and/or inherently determine if a program will fit into the smartcard's available memory, RAM, NVM or ROM **but is silent on** the loader interface having means for checking a badge of an application program to be loaded. Raith teaches a phone/smart card as replacing a badge proximity system (see above).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Peyret, such that the data carrier is equipped with a communications device, to provide means for the data carrier to have wireless communication means (eg. as a proximity detection badge per Raith's disclosure).

As per **claim 2**, Peyret teaches the method according to claim 1, comprising the following further step:

reloading at least one application program via the communication device by the program execution unit under the control of the load application into the assigned address space allotted thereto (figure 4 shows loading an applet into the smart card, C7, L20 to C8, L23).

As per **claim 3**, Peyret teaches the method according to claim 1, wherein the loader interface provides control over an assigned address space allotted to a load application to the load application (figure 3 shows an Application Loader #62 while figure 4 shows a Loading Control Program #62, both of which would install an application into the system memory so as to ensure that it is findable and therefore executable. Hence, Peyret's system inherently has control over the entire assigned address space allotted to applications otherwise the system would not work correctly, eg. the application could potentially over-write operating system programs).

As per **claim 5**, Peyret teaches the data carrier according to claim 4, **but is silent on** including a load application received in the memory device that controls a pad of the free memory space associated with the loader interface, independently of the loader interface.

Peyret does teach that RAM is used as a non-savable scratchpad by the O/S and applications (C5, L2-11) and support for loading multiple applications (figure 4, #94 and #96) which inherently requires separate memory allocations otherwise the applications would "step all over each other" in memory and over-write data from another application(s).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Peyret, such that it includes a load application received in the memory device that controls a pad of the free memory space associated with the loader interface, independently of the loader interface, to provide means for efficiently loading programs into their own memory areas whereby the O/S instructs said programs where to write their data so as not to interfere with other programs.

As per **claim 9**, Peyret teaches the method according to claim 8, wherein the badge furthermore contains information designating the application program (figure 4, the interface connection #86 to #88 will recognize which terminal #80 the smart card is connected to and select the appropriate Application Program, #94 or #96, etc. to execute via the Transaction Program #66).

Art Unit: 2683

As per **claim 10**, Peyret teaches the method according to claim 8, wherein the badge furthermore contains a signature for proving the authenticity of the application program (C6, L15-27 and C7, L43-67 both teach authentication).

As per **claim 11**, Peyret teaches the method according to claim 8, **but is silent on** wherein the badges are issued by the issuer of the data carrier.

Raith teaches a mobile phone with integrated smart card whereby the phone service provider inherently issues (eg. sells) the phone and smart card.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Peyret, such that the badges are issued by the issuer of the data carrier, to provide means for one issuing authority to control the dissemination of the data carrier and communication device for security purposes (as well as making it easy to acquire both, eg. one-stop shopping).

**Claim 6** rejected under 35 U.S.C. 103(a) as being unpatentable over Peyret and Raith as applied to claim 4 above, and further in view of Carper US 6,256,690.

As per **claim 6**, Peyret teaches the data carrier according to claim 4 **but is silent on** wherein the load applications are designed to link application programs to be reloaded with application and function programs already present on the data carrier, during loading.

Carper teaches a smart card system (title) that provides for; 1) multiple applications to be stored on one smart card and 2) application(s) that can call other application(s) [abstract, C4, L57-59 and C5, L13-21] which reads on the claim.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Peyret, such that the load applications are designed to link application programs to be reloaded with application and function programs already present on the data carrier during loading, to provide means for the programs to have interconnectivity on the smart card and call other programs as needed.



Art Unit: 2683

***Allowable Subject Matter***

**Claim 7** objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The claim recites a highly specific design which is novel in the examiner's opinion and not found in the prior art cited.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1. De Jong US 5,802,519
2. Kuo et al. US 6,003,134
3. Holtey et al. US 5,293,424
4. Everett et al. US 6,575,372
5. Guthery US 6,308,270

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. D'Agosta whose telephone number is 703-306-5426. The examiner can normally be reached on M-F, 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Trost can be reached on 703-308-5318. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Stephen D'Agosta

